

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE AUTOMOTIVE PARTS ANTITRUST  
LITIGATION\_\_\_\_\_./

Case No. 12-2311

**FINAL FAIRNESS HEARINGS (VIA ZOOM VIDEO)**

**BEFORE HON. SEAN F. COX**

United States District Judge  
829 U.S. Courthouse  
231 West Lafayette Boulevard  
Detroit, Michigan 48226

**(Thursday, July 16, 2020)**

APPEARANCES:

DAVID H. FINK, ESQUIRE  
NATHAN J. FINK, ESQUIRE  
STEVEN A. KANNER, ESQUIRE  
GREGORY P. HANSEL, ESQUIRE  
EUGENE SPECTOR, ESQUIRE  
JOSEPH KOHN, ESQUIRE  
Appearing on behalf of Direct Purchaser  
Plaintiffs.

KATHERINE DUTCHER, ESQUIRE  
Appearing on behalf of Defendant Toyoda  
Gosei.

STEVEN CHERRY, ESQUIRE  
Appearing on behalf of Defendant DENSO.

ELLEN MAXWELL-HOFFMAN, ESQUIRE  
Appearing on behalf of Defendant NGK.

JEFFREY AMATO, ESQUIRE  
Appearing on behalf of Defendant Corning.

LINDSEY R. VAALA, ESQUIRE  
Appearing on behalf of Hitachi Automotive  
Systems defendants.

FRED K. HERRMANN, ESQUIRE  
JAMES LERNER, ESQUIRE Appearing on behalf  
of Defendant Hitachi Metals.

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MICHAEL BRODY, ESQUIRE  
Appearing on behalf of the Mitsubishi  
Electric defendants.

PAUL VICTOR, ESQUIRE  
Appearing on behalf of Hitachi Metals.

SHANNON K. MCGOVERN, ESQUIRE  
Appearing on behalf of Defendant Diamond  
Electric.

HOWARD B. IWREY, ESQUIRE  
Appearing on behalf of Defendant Aisin  
Seiki.

DANIEL FOIX, ESQUIRE  
Appearing on behalf of Defendant NGK.

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Detroit, Michigan

Thursday, July 16, 2020

(At 11:15 a.m.)

\* \* \*

DEPUTY COURT CLERK: The Court calls case number 12-2311, In re Automotive Parts Antitrust Litigation, subpart number 13-1401, the ignition coils matter.

Counsel appearing for this matter, can you please state your appearances for the record?

MR. D. FINK: Your Honor, David Fink appearing as interim liaison counsel for the direct purchaser plaintiffs.

MR. N. FINK: And Nathan Fink, also appearing on behalf of the direct purchaser plaintiffs, as interim liaison counsel.

MR. HANSEL: Good morning, Your Honor. Greg Hansel on behalf of the direct purchaser plaintiffs as one of the interim co-lead counsel.

MR. KANNER: Good morning, Your Honor. Steve Kanner, also appearing on behalf of direct purchaser plaintiffs, as interim co-lead counsel on each of the cases that are being called today.

MR. LERNER: James Lerner, appearing on behalf of the Hitachi Metals defendants.

MR. CHERRY: Steve Cherry, of WilmerHale, appearing on behalf of the DENSO defendants.

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1 MR. BRODY: Michael Brody, appearing on behalf of  
2 the Mitsubishi Electric defendants.

3 MR. SPECTOR: Eugene Spector, appearing on behalf of  
4 the direct purchaser plaintiffs, one of the co-lead counsel.

5 MR. KOHN: Good morning, Your Honor. Joseph Kohn,  
6 also for the direct purchaser plaintiffs, one of the interim  
7 lead counsel.

8 MS. MCGOVERN: Shannon McGovern of Simpson, Thacher  
9 Bartlett on behalf of the Diamond Electric defendants.

10 MR. HERRMANN: Good morning, Your Honor. Fred  
11 Herrmann appearing on behalf of Hitachi Metals and brake  
12 hoses. I'm not sure if we're at those appearances yet, but  
13 it seems others are appearing for all the proceedings.

14 THE COURT: Yes.

15 MR. IWREY: Good morning, Your Honor. Howard Iwrey  
16 on behalf of Aisin Seiki.

17 THE COURT: All right. Is that it?

18 MR. AMATO: Good morning, Your Honor. Jeff Amato  
19 from Winston and Strawn, for the Corning defendants in the  
20 ceramic substrates matter.

21 MS. DUTCHER: Kate Dutcher, appearing on behalf of  
22 the Toyoda Gosei defendants in brake hoses.

23 THE COURT: I'm sorry, who was that?

24 MS. DUTCHER: Kate Dutcher.

25 THE COURT: Got it. Thank you.

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1                   And Mr. Victor?

2                   MR. VICTOR: Yes. Good morning, Your Honor.

3                   Appearing on behalf of Hitachi Metals in the brake hoses  
4                   case.

5                   THE COURT: Good morning everybody. Now, most of  
6                   you have been together on this case for eight years. And of  
7                   course, I've been on this case for less than eight weeks. So  
8                   you guys are going to have to help me out a little bit.

9                   I have read all the motions and the responses that  
10                  are up today. And so Mr. Fink and Mr. Iwrey I did see your  
11                  e-mails, so why don't you two kind of help me out regarding  
12                  who everybody is, and identify different individuals as we  
13                  proceed through these hearings here this morning.

14                  And the first set of hearings are motions for final  
15                  approval of provisional approved settlements in four  
16                  component part cases involving ignition coils, brake hoses,  
17                  ceramic substrates, and valve timing controls.

18                  So is it going to be Mr. Fink or Mr. Kanner? The  
19                  ball's in either one of your courts.

20                  MR. D. FINK: Your Honor, this is David Fink as  
21                  liaison counsel. And I will introduce the Court to each of  
22                  the co-lead counsel that are handling these matters.

23                  As the Court noted, this case has been going on for  
24                  over eight years. And interestingly and significantly,  
25                  during that eight-year period, the same group of co-lead

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1 counsel and liaison counsel for the direct purchaser  
2 plaintiffs have continuously represented the direct purchaser  
3 plaintiffs. So with respect to the first part, ignition  
4 coils, Eugene Spector from Spector, Roseman & Kodroff, will  
5 be presenting our motions to the Court.

6 If the Court would like, I'll be happy to provide a  
7 little more information about the history of the case, but I  
8 know the Court has had an opportunity to review probably as  
9 much as it needs at this point.

10 THE COURT: I'm good right now. Mr. Spector, you  
11 may proceed.

12 MR. SPECTOR: Thank you, Your Honor. Eugene Spector  
13 on behalf of the direct purchaser plaintiffs, and we're  
14 seeking final approval, Your Honor, of four settlements with  
15 Mitsubishi Electric, MELCO, Hitachi Automotive or HIAMS and  
16 --

17 THE COURT: All right, let's go.

18 MR. SPECTOR: I'm sorry.

19 THE COURT: But as we walk through, let's take them  
20 one at a time, okay?

21 MR. SPECTOR: Yes, Your Honor. And as you have  
22 alluded to our papers, we set forth in detail why all four of  
23 these settlements are fair, reasonable and adequate.

24 But let's start with a little bit of the case  
25 history, and that begins when the point of All European Auto

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1 Supply filed a case in May of 2015 on behalf of direct  
2 purchasers of ignition coils.

3 Now, All European Auto Supply is an auto supply  
4 company located in Ferndale, Michigan, and is one of the  
5 largest suppliers of European auto parts in the Midwest. The  
6 lawsuit alleged that the defendants conspired to fix, raise,  
7 and maintain, and stabilize, rig bids, and allocate the  
8 supply of ignition coils sold in the United States.

9 We've settled with the four defendants. First, with  
10 Mitsubishi Electric in September of 2018, Judge Battani  
11 preliminarily approved the settlement with Mitsubishi  
12 Electric in the amount of \$2,986,486.

13 Also in September of 2018, Judge Battani  
14 preliminarily approved the settlement with the HIAMS  
15 defendants in the amount of \$2,000,653.86.

16 In April of 2019, and in an amended order of May of  
17 2019, Judge Battani preliminarily approved settlement with  
18 DENSO in the amount of \$100,000.

19 And finally, in January of 2020, Judge Battani  
20 preliminarily approved the settlement with the Diamond  
21 Electric defendants in the amount of \$200,000.

22 All told, these four settlements amount to almost  
23 six million dollars. And at the same time that the Court  
24 preliminarily approved the settlements, she provisionally  
25 certified four separate settlement classes.



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1           As I said, the total of the settlements is actually  
2     \$5,942,332. The factors that are required to support a  
3     settlement like this to be considered are laid out in detail  
4     in our briefs and I'll repeat them if the Court would like,  
5     but I simply would like to say that this settlement really is  
6     a fair, reasonable, and adequate one that was attained  
7     through the diligent work of counsel for both the plaintiffs  
8     and the defendants.

9           This is the result of a knowledgeable resolution  
10    where the settlement counsel reviewed hundreds of thousands  
11    of pages of documents produced by the defendants, met with  
12    the applicant for amnesty from the Department of Justice to  
13    get interviews and understand how this whole industry worked  
14    and this conspiracy worked, investigated the industry, and  
15    worked also with our clients in terms of getting industry  
16    information and approval of any of the steps that we took.

17          Settlement class counsel considered all of this  
18    information before beginning their settlement negotiations  
19    with defendants. The settlement negotiations were conducted  
20    at arm's length by counsel that are both very experienced,  
21    and very knowledgeable in this business, considered the  
22    inherent risks, the uncertainties in the cost of continuing  
23    to litigate versus the benefits and certainties provided by  
24    settlements.

25          Class counsel decided that the dollar value of the

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1 settlements, coupled with the defendants' cooperation  
2 provided really a good justification for these settlements.  
3 And that cooperation was important, and would be if this  
4 settlement is not approved and we have to go forward and try  
5 these cases. That cooperation will be quite valued.

6 And when we sent out notice, we sent out notice and  
7 advised 609 identified class members of this settlement, and  
8 none objected, and very few opted out.

9 In fact, those statistics we now have final on, we  
10 have no objections through the period by which objections had  
11 to be submitted to the Court, and we have opt-outs that are  
12 identified in our papers. In this case, there are nine  
13 opt-outs for this case. So we believe that this response by  
14 the class members show that this settlement is fair,  
15 reasonable and adequate, and should be approved by the Court.

16 THE COURT: Okay. Do any of the defendants in the  
17 ignition coils wish to speak?

18 All right, no one. Okay.

19 With respect to ignition coils, the Court finds that  
20 the settlement is fair, reasonable, adequate, and should be  
21 approved, approves the distribution plans, and certifies the  
22 class for settlement.

23 The Court notes that the class representatives and  
24 class counsel have adequately represented the class. The  
25 proposal resolution was negotiated at arm's length, and the

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1 relief sought for the class is adequate, taking into account  
2 the costs, risks, and delay of trial and appeal, and the  
3 effectiveness of a proposed method of distribution. And the  
4 proposal treats class members equitably relative to each  
5 other.

6 And so the Court will grant the motion regarding  
7 ignition coils.

8 Any other issues regarding ignition coils?

9 MR. SPECTOR: Yes, Your Honor. We have also pending  
10 a motion for the approval of the payment of attorneys' fees.

11 THE COURT: Can I do all those motions together?  
12 That was my plan. Is that --

13 MR. SPECTOR: Fine, Your Honor. We can go on to the  
14 others. Absolutely. No problem.

15 THE COURT: Mr. Iwrey, is that agreeable to you?

16 MR. IWREY: Absolutely, Your Honor. So we can go  
17 through the four final --

18 MR. D. FINK: Yes, Your Honor.

19 THE COURT: Okay.

20 MR. IWREY: -- first.

21 THE COURT: How do you feel about the jury  
22 consultant? Okay, go ahead.

23 MR. IWREY: And it's fine with defendants, Your  
24 Honor. Thank you.

25 THE COURT: Great.

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1           MR. D. FINK: And Steven Kanner, who is from Freed,  
2 Kanner London & Millen is here to present on that motion.

3           THE COURT: Mr. Kanner, you may proceed.

4           MR. KANNER: Good morning, Your Honor. I'll try and  
5 make this as streamlined as possible since the Court does  
6 have our memorandum in support, and is fully aware.

7           We're here obviously, as with the other cases,  
8 seeking final approval of the settlement with Hitachi Metals  
9 and Toyoda Gosei defendants.

10           As we indicated in our memorandum, and as I'll  
11 discuss today, we firmly believe that the settlements are  
12 fair, reasonable, adequate and merit approval by the Court.

13           Historically, the complaints were filed in this case  
14 in December of 2016 and September of 2019. The plaintiff is  
15 Emerald Capital Advisory Corporation, in its capacity as  
16 trustee for the FAH liquidating trust.

17           It filed the suit against Hitachi Metals and Toyoda  
18 Gosei on behalf of all direct purchasers of automotive brake  
19 hoses. All of these cases today are out of the same general  
20 allegations that the defendants conspired to fix, maintain,  
21 and stabilize prices, rank bids, and allocate the supply of  
22 automotive brake hoses sold in the United States.

23           With respect to Hitachi Metals, in September of 2017  
24 Judge Battani preliminarily approved the settlement with  
25 Hitachi Metals in the amount of \$2.725 million. With respect

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1 to Toyoda Gosei, in January of 2020 Judge Battani  
2 preliminarily approved the settlement with Toyoda Gosei  
3 defendants in the amount of \$2,266,667.

4 In conjunction with the orders preliminarily  
5 approving the settlements, the Courts also provisionally  
6 certified the proposed Hitachi Metals and Toyoda Gosei  
7 settlement classes.

8 As set forth in the notice report, which is included  
9 in the package of materials Your Honor has today, there were  
10 reductions to the total amounts based on opt-out requests  
11 from certain class members. The Hitachi Metals settlement  
12 was reduced to \$1.975 million and the Toyoda Gosei settlement  
13 was reduced to \$950,000.

14 With respect to fairness, adequacy and  
15 reasonableness, Your Honor, we believe that these settlements  
16 were obtained through diligent hard work of counsel for both  
17 plaintiffs and the defendants. Settlement class materials  
18 produced by defendants were reviewed. They consisted of  
19 thousands of documents that they had produced to the  
20 Department of Justice.

21 We also received cooperation from Toyoda Gosei,  
22 which is the leniency applicant, and conducted a thorough  
23 independent investigation of the industry.

24 Class counsel considered all of this information in  
25 the settlement negotiations with the defendants. The

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1 negotiations were indeed conducted at arm's-length and were  
2 quite robust. They were done by experienced counsel on both  
3 sides that considered the inherent risks, and uncertainties  
4 and costs, while mitigating versus the benefits and  
5 uncertainties provided by the settlement.

6 Class counsel determined that the dollar value of  
7 the settlements provided ample justification to answer and  
8 took the settlements.

9 Now, this conclusion is supported by the fact that  
10 in response to our notice we received no objections to the  
11 class settlements and only two opt-outs for one defendant and  
12 one opt-out for the other -- Toyoda Gosei had -- I'm sorry,  
13 two opt-outs, General Motors and Toyota. I'm sorry. I'm  
14 incorrect on that.

15 Hitachi had the two opt-outs, General Motors and  
16 Toyota, and Toyoda Gosei had only one opt-out and that was  
17 Toyota.

18 With respect to notice, Your Honor, notice was  
19 proper, satisfied due process.

20 You understand all the rules, and I don't have to go  
21 through, I don't believe, the requirements of Rule 23 with  
22 respect to notice and the identities of the various entities.  
23 I can tell the Court that on February 7th the claims  
24 administrator mailed all notices to potential members of the  
25 settlement class identified by the defendants. That notice

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1 was posted and remains posted on a website dedicated to this  
2 litigation.

3 On February 17th summary notice of proposed  
4 settlements were published in Automotive News, an online or  
5 -- an online banner notice, I should say, appeared over a  
6 three-week period on www.autonews.com, the digital version of  
7 Automotive News and an informational press release was issued  
8 nationwide by the PR Newswires Autowire publication that  
9 targets industry, the auto industry trade publications.

10 I would also inform the Court that both Hitachi  
11 Metals' and Toyoda Gosei's counsel have informed us that they  
12 have fulfilled their obligations under the Class Action  
13 Fairness Act by giving direct written notice to the  
14 appropriate federal and state officials.

15 We do believe that the settlements are fair,  
16 adequate, and reasonable. I think we have made it clear in  
17 our papers that we satisfy the other elements of Rule  
18 23(a) (1) through (4) of numerosity, commonality, typicality,  
19 and adequacy.

20 With that in mind, you know, and noticing that again  
21 there have been no objections, we do believe that this case  
22 is appropriate for your determination of granting approval  
23 for the final settlement.

24 THE COURT: All right. Thank you very much, sir.

25 Does anyone wish to speak on behalf of the

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1 defendants on brake hoses?

2 MR. HERRMANN: Your Honor, Hitachi Metals has  
3 nothing to add.

4 THE COURT: Okay, thank you.

5 The Court finds that the settlement is fair,  
6 reasonable, and adequate, and it should be granted, the final  
7 approval, the approval of Distribution plans, and we'll  
8 certify the class for purposes of settlement.

9 The class represented and class counsel have  
10 adequately represented the class. The proposal was  
11 negotiated at an arm's-length. The relief provided for the  
12 class is adequate, taking into account the cost, risks, and  
13 delay of trial and appeal. The effectiveness of any method  
14 of -- the effectiveness of the proposed method of  
15 distribution, as well as the processing of the class member  
16 claims. And the proposal treats the class members equitably  
17 relative to each other. And therefore the motion is granted.

18 Any other issues on brake hoses? No? Okay.

19 Mr. Fink?

20 MR. D. FINK: I apologize, Your Honor. The next  
21 matter I believe is ceramic substrates, and Greg Hansel of  
22 the of Preti Flaherty firm will be presenting on the final  
23 approval motion.

24 MR. HANSEL: May it please the Court, good morning  
25 again, Your Honor.



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1           I want to thank Your Honor for holding this hearing  
2 by Zoom. It really enables all of the parties and the Court  
3 to move the case forward under all the circumstances that  
4 we're living in now in these extraordinary times. And we  
5 really appreciate justice moving forward, even though we're  
6 all dealing with coronavirus. So thank you for that.

7           I was not much of a car guy before I got involved in  
8 these cases, but I did learn that a ceramic substrate is a  
9 honeycomb-like structure that is the main ingredient in the  
10 catalytic converter which cleans the exhaust of a car, and  
11 it's the most expensive ingredient in a catalytic converter.  
12 And so that's what the part is that I'm talking about.

13           This part, there were three defendants. And after  
14 filing the complaint on behalf of our client, Airflow  
15 Systems, Inc. we were faced with motions to dismiss, both a  
16 collective motion to dismiss, and an individual motion to  
17 dismiss on behalf of DENSO. Direct purchasers responded to  
18 those. We did have other contested motions.

19           And we eventually obtained a large volume of  
20 documents which were seized by or produced to the Department  
21 of Justice by the defendants. And we received cooperation  
22 from the amnesty applicant in this case. So eventually,  
23 through a great deal of investigation, hard work, analysis,  
24 and motion practice, we began to negotiate settlements with  
25 these defendants. The first settlement reached was with NGK

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1 in the amount of \$10.2 million; the second settlement was  
2 with DENSO in the amount of \$100,000; and the third was with  
3 Corning in the amount of \$7 million. So the total amount of  
4 these three settlements is 17.3 million.

5 The first two settling defendants each agreed to  
6 provide cooperation against the remaining defendants. And as  
7 Mr. Spector noted, if the settlements were not approved, we  
8 would still need that cooperation today, and we believe that  
9 cooperation is a vital element, a valuable element of  
10 settlements, which gave us more negotiating leverage, and  
11 ability to prove our case against the non-settling defendant,  
12 the last settling defendant.

13 The settlements are fair, reasonable, and adequate.  
14 They were negotiated at arm's-length after a full  
15 investigation. The negotiations took place over many months.  
16 In the case of two of the settlements, distinguished  
17 mediators were involved. As the Court is aware, Judge  
18 Battani initiated a mediation program in this case. And in  
19 this antitrust bar, many of the lawyers are able to negotiate  
20 settlements directly just on a bilateral basis between two  
21 parties without a mediator.

22 But we've also had the benefit of some very fine  
23 mediators who have facilitated the parties reaching  
24 settlements, and that was certainly true in the case of  
25 ceramic substrates.

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1           In the DENSO settlement, the mediator was James  
2           Quinn from New York, and with the Corning settlement, the  
3           mediator was Eric Green from Boston. And they are two of the  
4           leading mediators in the United States and they're familiar  
5           with antitrust law. And they really helped us, you know,  
6           after many months and a lot of bumps in the road, helped us  
7           reach these settlements.

8           The relief provided to the class is significant,  
9           \$17.3 million, plus cooperation. It's very valuable.

10          The distribution plan, which is also part of our  
11          motion for final approval, is very straightforward and  
12          equitable. It's a pro rata distribution plan according to  
13          each class member's purchases of the correct products during  
14          the class periods.

15          And it's also -- it benefits the public interest to  
16          approve these settlements, because it will conserve judicial  
17          resources, resolve difficult litigation, and provide a  
18          benefit to the class members.

19          The notice process complied with Rule 23 and due  
20          process. Notices were mailed to 237 potential class members.  
21          A lot of courts have observed that mailing notice directly to  
22          a class member is sort of the gold standard.

23          And then, as kind of a backup method, there's also  
24          significant publication notice that we did in this case,  
25          including in Automotive News, both the paper and electronic

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1 versions. Also Autowire through PR Newswire.

2 And as the Court is aware there is an official  
3 website called autopartsantitrustlitigation.com. This  
4 website was set up by the direct purchasers with the approval  
5 of the Court. And on this website can be found all of the  
6 direct purchaser settlements. A lot of the key papers are --  
7 you can just click on a link and read the papers. And it's a  
8 great vehicle for providing notice to class members. So the  
9 notice was robust.

10 The Court, under Judge Battani, under her watch,  
11 granted preliminary approval to all three of these  
12 settlements. But as the Court is aware, there is a higher  
13 standard for final approval, and we believe that higher  
14 standard is satisfied in this ceramic substrates case.

15 Numerosity, there are 237 entities to whom we've  
16 provided notice, and joinder of all of them would be  
17 extremely impracticable and onerous in individual litigation.  
18 There are common issues, and those common issues predominate.

19 I'll cover both of those points in one. So the same  
20 set of core operative facts and theory of liability applies  
21 to each class member. Those issues include whether the  
22 defendant has entered into an illegal conspiracy to  
23 artificially fix prices of ceramic substrates; whether that  
24 conspiracy caused impact on the class members.

25 And in this case, each of the class members, if they

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1 sued individually, would be required to prove the same  
2 wrongdoing. So there are common issues, and they do  
3 predominate.

4 Typicality. Our client, Airflow Catalyst Systems,  
5 Inc. is typical. They are a direct purchaser from defendants  
6 in this case. They happen to be a very engaged plaintiff,  
7 very knowledgeable. And they are typical of the class  
8 members. They bought during the right period of time, they  
9 bought the right product, and they have the same legal claim  
10 as the other class members, which is Section One of the  
11 Sherman Act.

12 The class representative and the class counsel are  
13 adequate, so the adequacy requirement is satisfied. I  
14 covered the class representative already. And counsel, the  
15 interim co-lead counsel for direct purchasers are experienced  
16 in this type of antitrust class action litigation.

17 The class action is superior to individual actions.  
18 It is much more efficient for the Court to resolve what  
19 really amount to hundreds of claims in a single proceeding,  
20 rather than have a multiplicity of separate lawsuits with the  
21 possibility of inconsistent results.

22 The reaction of the class after receiving notice has  
23 been overwhelmingly positive. Out of the over 200 class  
24 members notified, there have only been a total of eight  
25 requests for exclusion from the class.

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1           As the Court is aware, there are actually three  
2       different settlement classes we are proposing, one for each  
3       defendant. And two of the settlement classes only had four  
4       families of -- of requests for opt-outs, one had eight. And  
5       there was -- across all three, there was a total of only  
6       eight unique opt-outs.

7           So for all of those reasons, direct purchasers  
8       respectfully suggest that the settlements in ceramic  
9       substrates are fair, reasonable, and adequate, and request  
10      the Court to approve them finally today.

11           Thank you, Your Honor.

12           THE COURT: All right, thank you.

13           Does anyone wish to speak on behalf of the  
14      defendants? Okay.

15           MR. FOIX: Your Honor, this is Daniel Foix,  
16      appearing on behalf of defendant NGK entities. I didn't  
17      enter my appearance earlier. I wanted to do that now. I  
18      don't have anything to add on the settlement approval.

19           THE COURT: All right, thank you.

20           All right. The Court finds the settlement is fair,  
21      reasonable, and adequate, and will grant the final approval,  
22      the approval of the distribution plan, and certify the class  
23      for purposes of settlement.

24           The Court finds that the class representatives and  
25      class counsel have adequately represented the class. The

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1 proposal was negotiated at arm's-length, relief provided for  
2 the class is adequate, taking into account costs, risks,  
3 delay of trial and appeal, the method of distribution will --  
4 distributing relief to the class. And the proposal treats  
5 class members equitably relative to each other.

6 So we will grant your motion.

7 And Mr. Fink the final is valve timing controls, is  
8 that correct?

9 MR. D. FINK: That's correct, Your Honor. And Joe  
10 Kohn, of Kohn, Swift & Graf who's been co-lead counsel since  
11 the beginning, will speak to that.

12 THE COURT: Mr. Kohn?

13 MR. KOHN: Thank you, Your Honor. May it please the  
14 Court, and let me just echo my colleagues' thanks for hearing  
15 us on this matter and this method.

16 The valve timing control devices motion also  
17 similarly involves multiple defendants. There were four  
18 defendants in the case. If the Court were to grant the  
19 approval of these settlements, it would conclude that matter  
20 in totality for the direct purchaser class.

21 The first settlements were preliminarily approved by  
22 Judge Battani in November of 2018 with the Hitachi HIAMS  
23 defendants, and the Mitsubishi Electric defendants.

24 Then in May of 2019, a settlement with DENSO was  
25 preliminarily approved. And then finally, February of 2020,

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1 the final settlement with the Aisin Seiki defendants was  
2 granted preliminary approval.

3 And our position, thinking, was to not separately  
4 notice, but that it made more sense for efficiency for the  
5 Court, for the class, for notice costs to continue our  
6 negotiations and our efforts in this case until we could  
7 conclude the entire case, and then to proceed as we are  
8 today.

9 March 20 of 2020, Judge Battani did approve a notice  
10 program similar to the ones that my colleagues have mentioned  
11 of the four settlements.

12 The settlement with Hitachi HIAMS is in the amount  
13 of \$1,410,000.

14 The settlement with Nissan Seiki is \$850,000,  
15 Mitsubishi Electric \$359,000, and with DENSO \$100,000, for a  
16 total of \$2,719,274. And these settlements also contained  
17 cooperation along the way, which Mr. Hansel explained, did  
18 provide value as each of those settlements were filed. The  
19 remaining defendants saw that that cooperation was being  
20 obtained.

21 As a plaintiff in these cases, there's just the  
22 single class representative which is the All European Auto  
23 Supply, Inc. which was the class representative in the matter  
24 that Mr. Spector spoke to this morning.

25 The report on the notice program and an appropriate



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1 affidavit from the claims administrator was filed dated June  
2 4, 2020, that day from Ms. Birdsall (phon.) of the Epic  
3 Company.

4 This class had 201 members. I was able to get the  
5 list from the records of the defendants there, their sales  
6 invoices to these purchasers. It was mailed March 25th and  
7 was published April 6th in the Auto News, Automotive News and  
8 on the website.

9 Once again, we're happy to report, as we did in our  
10 papers, there were no objections from any class members, and  
11 we continued to check up until this morning. There's still  
12 no objections. And, you know, a handful of opt-outs that do  
13 vary in the different settles.

14 And that has been the history in this case, that the  
15 OEMs and other purchasers remain in classes frequently, and  
16 at different times for different reasons, will choose to opt  
17 out. So, for example, in this case, there were four opt-outs  
18 from the Aisin Seiki settlement, and four from the Hitachi  
19 settlement, plus seven from Mitsubishi, and nine from DENSO.

20 And there's a schedule of these on a chart that was  
21 attached. It's Exhibit Three to the affidavit from Ms.  
22 Birdsall. So it is interesting, for example, that Toyoda  
23 opted out of the DENSO settlement, but remains in the other  
24 settlement, and the other examples.

25 So the point I'm trying to make is that these are

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1 sophisticated class members, many of them with inside and  
2 outside counsel. And I think that gives extra comfort to us  
3 on the issue of the objections. These are obviously class  
4 members who can act for themselves. They remain in a class.  
5 They opt out if they saw problems with the settlements. They  
6 would have the ability to object.

7 Our approval motion was filed on April the 24th.  
8 And I know Your Honor is very familiar with the procedures  
9 under Rule 23, and we've obviously gone through them at some  
10 length this morning, so I won't repeat those. We do rely on  
11 our papers.

12 If I could maybe just highlight a few things about  
13 this particular case. We also did receive the Department of  
14 Justice documents pursuant to procedures that had been in  
15 place from Judge Battani early in the case. This was a case  
16 that also involved an amnesty applicant, and we did receive a  
17 proffer. We had all the risks that go with class litigation  
18 and antitrust litigation generally.

19 In addition, there were some particular defenses  
20 that were raised. Defendant Aisin had a unique defense with  
21 respect to the venue of the case pursuant to their sales  
22 transaction documents. Two of the defendants' settlements  
23 with Hitachi and with DENSO were reached with the help of  
24 mediation.

25 The DENSO settlement, Mr. Quinn, who Mr. Hansel

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1 mentioned, was part of the group that was appointed by Judge  
2 Battani. That included Judge Rosen, Judge Weinstein, the  
3 JAMS organization. And then the Hitachi settlement was  
4 reached with the help of Ken Feinberg, who I would say is a  
5 well-known mediator. And we were able to settle the other  
6 ones directly with our distinguished colleagues in the  
7 defense bar.

8 We have the same plan of allocation that has  
9 previously been approved by the Court, and we've actually  
10 been able to complete some distributions in the direct  
11 purchaser cases as this litigation has proceeded. A claim  
12 form was included with the notice, and claims have come in.  
13 They are being analyzed now by the claims administrator.

14 So we would respectfully request the Court's  
15 approval of the settlement. They are the agreed-upon  
16 judgment orders that were negotiated as a part of these  
17 settlement documents, carefully negotiated with the defense  
18 counsel, and to approve those settlements, to approve the  
19 settlement classes, and to approve our plan of allocation,  
20 which would conclude the direct purchaser valve timing and  
21 control device case.

22 THE COURT: All right. Thank you, Mr. Kohn.

23 Does anybody want to speak on behalf of the defense?

24 MS. VAALA: No, thank you, Your Honor.

25 MR. BRODY: No, Your Honor.

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1 MR. CHERRY: No, Your Honor.

2 THE COURT: All right. The Court finds that the  
3 settlement is fair, reasonable, and adequate, and will grant  
4 final approval, approve the distribution plan, and certify  
5 the class for the purposes of settlement.

6 The Court finds class representatives and class  
7 counsel had adequately represented class. The proposal was  
8 negotiated at arm's length. The relief provided for the  
9 class is adequate, taking into account the costs, risks, a  
10 delay of trial and appeal, the method of distribution, claim  
11 processing, and the proposal treats class members equitably  
12 relative to each other. Therefore, the motion is granted.

13 So Mr. Fink, and Mr. Iwrey, I believe we move on now  
14 to the motions for award of attorney fees, litigation costs,  
15 and expenses and service awards. Is that correct?

16 MR. D. FINK: That's correct, Your Honor.

17 THE COURT: And where is Howard?

18 MR. IWREY: That is correct. And I believe none of  
19 the defendants have opposed that motion.

20 THE COURT: Okay. Just give me a second here to  
21 move my notes around.

22 (Brief pause in proceedings)

23 THE COURT: Okay, Mr. Fink. I think the first  
24 matter is the ignition coils.

25 MR. D. FINK: Yes. The first matter is ignition

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1 coils, and again, Eugene Spector from Spector, Rosen &  
2 Kodroff is prepared to present to the Court a request for  
3 fees, expenses and an incentive payment.

4 THE COURT: All right. Mr. Spector?

5 MR. SPECTOR: Thank you, Your Honor. As I've  
6 previously said, this is a settlement in the amount of  
7 \$5,940,332 which has been reached with the four defendants,  
8 and we previously enumerated the amounts with each.

9 Six hundred and nine individual notices were mailed  
10 to potential class members based upon the records of those  
11 defendants, who we specifically were able to identify.

12 Notice was published on our Auto Parts website.  
13 Notice was published in the Automotive News. An information  
14 press release was released on our Newswire's Autowire. And  
15 after all of that, we have no objections.

16 And we have a limited number of opt-outs for nine  
17 companies, but there were various opt-outs in different  
18 cases. There were only seven in the MELCO case, six in the  
19 HIAMS case, nine in the DENSO settlement, and four in the  
20 Diamond Electric Settlement.

21 Plaintiffs' counsel has requested a 30 percent fee  
22 of the settlement proceeds after deducting litigation costs  
23 and expenses. This was also obviously contained in the  
24 notice, and there were again no objections and again few  
25 opt-outs. We thought that -- we think, and the Court has

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1 already found that the settlement is fair, reasonable, and  
2 adequate.

3 We think that the reaction of the class members  
4 indicates their broad support for the settlement and for our  
5 requests for fee.

6 We've asked the Court to apply the percentage of the  
7 fund method as has been done in all of the other direct  
8 purchaser cases in this MDL, because that method conserves  
9 judicial resources, and eliminates any need to talk about the  
10 reasonableness of rates and hours, and aligns the interests  
11 of counsel and the class, and it's typical in this kind of  
12 litigation.

13 Thirty percent is also within the range of other  
14 class-action fees awarded in the Sixth Circuit and by this  
15 Court in prior auto parts settlements.

16 Now, as we've alluded to in our presentations on the  
17 approval of the settlement, counsel vigorously and  
18 effectively pursued the claims on behalf of the direct  
19 purchasers. We investigated the facts, we drafted the  
20 complaints, we opposed a motion to dismiss, reviewed and  
21 analyzed documents, obtained information about claims,  
22 negotiated the terms of the settlement, and prepared the  
23 settlement documents.

24 The Sixth Circuit approval factors are laid out  
25 extensively in our briefs, that we did obtain a valuable

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1 benefit for the class, almost \$6 million.

2 And the value of the services that were rendered by  
3 counsel in this lodestar cross-check confirms a reasonable  
4 fee. The percentage -- lodestar percentage multiplier that  
5 we're seeking right now as of the time put into the case  
6 through April 30th is 1.1 times our lodestar, and which is  
7 well within the range of reasonables and approved by courts  
8 in this district and by this Court.

9 The allocation -- we ask that the Court authorize  
10 interim lead counsel to allocate the fee among the law firms  
11 that have contributed to the result. Generally that's what's  
12 done and that's basically because we're the ones who know who  
13 did what and how that contribution helped benefit the case.

14 As for the litigation costs and expenses, we've  
15 excluded telephone, fax, and internal copying costs as have  
16 been requested to do by Judge Battani in these cases, and are  
17 asking for a reimbursement of \$27,485.69.

18 And the other request that we have at this point is  
19 for a service or incentive award to the class representative  
20 All European in the amount of \$25,000.

21 Now, I'll tell you that All European was not  
22 promised an incentive award. Settlements were presented to  
23 it and discussed with the representatives of All European and  
24 approval was sought from them without any mention of an  
25 incentive award. The requested incentive award is a

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1 reasonable one lower than in some cases and not unusual. And  
2 the class representative has devoted some significant time  
3 and effort to this case.

4 The assistant counsel, in developing our overall  
5 understanding of the automotive parts industry, and coils in  
6 particular, discussed collecting documents for review and  
7 potential protection to the defendants. They've discussed  
8 preservation of electronic and hard copy documents and  
9 implemented a plan to do that, reviewed pleadings and kept  
10 apprised of the litigation, reviewed the settlement details  
11 and conferred with counsel to determine whether the  
12 requirements were in the best interest of the class.

13 I think, under all those circumstances, considering  
14 that there have been no objections here, we would ask the  
15 Court to award the fees and expenses, and the incentive award  
16 we've requested.

17 Thank you, Your Honor.

18 THE COURT: Thank you, Mr. Spector.

19 Does anyone wish to speak on behalf of the defense  
20 on this issue?

21 MR. IWREY: No, Your Honor.

22 THE COURT: Okay. The Court finds that the request  
23 of the award for attorney fees are reasonable under the  
24 circumstances. The Court will grant the percentage of the  
25 fund approach. The Court finds, and has considered the value



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1 of the benefit rendered, society's stake in rewarding  
2 attorneys who provide such benefits in order to maintain an  
3 incentive to others whether the services were undertaken on a  
4 contingent fee basis, the complexity of the litigation, the  
5 professional skill and standing of the counsel involved on  
6 both sides, as well as the value of the services on an hourly  
7 basis. Those are the remaining factors. So that motion here  
8 is granted.

9 And Mr. Fink, can we now move on to brake hoses?

10 MR. FINK: Mr. Fink, yes, Your Honor. Mr. Kanner  
11 will speak to fees regarding brake hoses.

12 MR. KANNER: Thank you, Your Honor.

13 Once again, I'll echo the comments of my colleagues.  
14 We do appreciate your holding this meeting with so many  
15 attorneys on Zoom in order to move the wheels of justice. We  
16 do appreciate it. And --

17 THE COURT: Yes. And --

18 MR. KANNER: -- the remaining cases with Your Honor.

19 THE COURT: Mr. Kanner, I have it pretty easy  
20 because all I have to do is click it on. But it's actually  
21 Jennifer McCoy, our docket manager that's stuck putting this  
22 all together. So we should really thank her.

23 MR. KANNER: Well, on behalf of all plaintiffs'  
24 counsel, we do appreciate it.

25 THE COURT: I'm sorry for interrupting you. You may

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1 proceed.

2 MR. KANNER: No, not at all, Your Honor. Sometimes  
3 kudos have to be given to the right people before we get into  
4 it, and I do appreciate it.

5 Moving ahead though, the direct purchaser plaintiffs  
6 as you're well aware, respectfully request to award again a  
7 fee of 30 percent after deduction of reimbursed litigation  
8 costs and expenses. In this particular case, the litigation  
9 costs totaled \$11,575.06. And as with the previous case, we  
10 also seek an incentive award to the class representative in  
11 the amount of \$25,000.

12 If I can give a brief presentation of some of the  
13 details that were handled in this case, I think it would help  
14 further Your Honor's understanding of the efforts that went  
15 into producing this result.

16 As in any case, we began this with a detailed  
17 investigation of the brake hoses industry, which included  
18 obtaining experts on the manufacturing side, the business,  
19 and the sales sides of the industry.

20 We, as you might expect, drafted the initial and  
21 amended complaints after conferring with experts. We  
22 conducted any number of meetings with counsel representing  
23 the amnesty applicant to obtain information and cooperation  
24 to use in prosecuting the case, and with the non-amnesty  
25 defendant working out not just the details and obtaining

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1 documents, but to resolve the case. We conducted extensive  
2 negotiation with both defendants to ultimately resolve these  
3 cases.

4 We drafted the materials in conjunction with the  
5 settlement agreements, the notices, the orders, the  
6 preliminary and final approval of the motions and the briefs.

7 With respect to the documents produced, not only did  
8 we review those and analyze them, but they were all coded  
9 into a database which was usable and critical in prosecuting  
10 these cases.

11 Finally, we worked extensively with the claims  
12 administrators to design and send out the class notices which  
13 you've heard about, the claim forms, and to create and  
14 maintain the settlement website.

15 As an ongoing principle in these cases, co-lead  
16 counsel avoid duplication of efforts among the attorneys  
17 within their own firms and other attorneys working on the  
18 cases. Throughout the case we were able to work both  
19 cooperatively and officially with both opposing counsel and  
20 the Court.

21 I believe in my initial presentation I covered the  
22 timing and details of the class notice, so I don't think,  
23 unless Your Honor would request me to do so, that I need to  
24 go through those again.

25 THE COURT: No.

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1 MR. KANNER: Thank you.

2 With respect to the reasonableness of attorneys'  
3 fees, our motion for award of attorneys' fees describes how  
4 the direct purchaser plaintiff counsel have complied with the  
5 requirements of Rule 23, requiring notice to the class of  
6 attorneys' fees and the opportunity to object.

7 Historically, as Your Honor has heard before, we've  
8 requested a fee based on a percentage basis which the Sixth  
9 Circuit has left to -- regularly to the judgment of the  
10 District Court.

11 With respect to the factors considered by the Sixth  
12 Circuit, I'll just address a couple of those, and the results  
13 achieved would be the first.

14 We believe that the recovery of this \$2.925 million  
15 is a significant recovery in view of the circumstances. As I  
16 said, this was originally essentially a \$5 million settlement  
17 until the opt-outs were included.

18 The cross-check analysis used to compare the  
19 percentage fee approved with the lodestar reflects a total of  
20 1,675.4 hours of inception of the case through January 31st.  
21 Lodestar is based on historical rates, and that comes out to  
22 of \$938,161.

23 Based on the supplemental report filed on July 6,  
24 2020, that 30 percent fee of the current value of the  
25 settlement of 2.2 -- \$2.925 million, minus cost and expenses

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1 of \$11,575.06 results actually in a negative multiplier of  
2 .87, so ultimately we believe that's extraordinarily  
3 reasonable.

4 The requested fee, as Your Honor knows, is never a  
5 guarantee. Plaintiffs' counsel face a myriad of risks, and  
6 while we were optimistic about the outcome of the case,  
7 there's always a substantial risk factor.

8 There was indeed in this case a guilty plea  
9 regarding brake hoses to certain customers, but the DOJ  
10 doesn't seek recovery for class members who withheld from  
11 counsel to do so. And as Judge Battani previously noted,  
12 success is not guaranteed where a settling defendant pleads  
13 guilty since the DOJ is not obligated to prove impact or  
14 damages. I can discuss societal benefits, the complexity of  
15 antitrust cases, but I believe Your Honor is well aware of  
16 those.

17 We do seek the Court's authority to determine the  
18 fee allocation of most of the attorneys. As you previously  
19 heard, it makes sense for interim counsel to do so because we  
20 have the best analysis of what the relative contributions of  
21 various counsel were.

22 With respect to reimbursement of costs, as I said,  
23 we do seek reimbursement of costs and expenses in the amount  
24 I've designated, and those costs are itemized on the  
25 declaration attached to Exhibit One, and they were all

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1 necessary to prosecute this case.

2 With respect to the incentive award, as Mr. Spector  
3 previously indicated, no promises were made to the plaintiff.  
4 A significant amount of time was devoted by the plaintiffs'  
5 representative to assist prosecution analysis of this case.  
6 So we do believe that a \$25,000 incentive reward would be  
7 appropriate.

8 And I will close, Your Honor, by indicating that we  
9 have received no objections to the request for fees as sent  
10 out in the notice.

11 THE COURT: Thank you very much, Mr. Kanner.

12 Anybody on behalf of the defense wish to speak?

13 MR. HERRMANN: Hitachi Metals has nothing, Your  
14 Honor. Thank you.

15 THE COURT: Okay, Mr. Herrmann.

16 The Court finds that the request for attorney fees  
17 are reasonable under the circumstances. The Court grants the  
18 request to use percentage of the fund approach. The Court  
19 has considered the value of the benefit rendered, society's  
20 stakes in rewarding attorneys who provide such benefits in  
21 order to maintain an incentive to others, whether the  
22 services were undertaken on a contingent fee basis, the  
23 complexity of the litigation, the professional skills,  
24 standing of counsel involved on both sides, and the value of  
25 the services on an hourly basis. The motion is granted.

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1           And last by the way, Mr. Kanner, we were talking  
2           about kudos earlier on. I would like to thank Nate Fink, as  
3           well as Howard Iwrey for helping, getting this hearing off  
4           the ground. Both of you were very helpful. Thank you very  
5           much.

6           MR. KANNER: Thank you.

7           MR. IWREY: Thank you, Your Honor.

8           THE COURT: Nate Fink, not David Fink.

9           MR. N. FINK: Oh, I heard you.

10          THE COURT: I guess we are next going to hear from  
11          Mr. Hansel.

12          MR. HANSEL: That's correct, Your Honor.

13          THE COURT: You may proceed.

14          MR. HANSEL: Thank you, Your Honor. Again, Greg  
15          Hansel for direct purchaser plaintiffs.

16          Direct purchaser plaintiffs respectfully request an  
17          award of attorneys' fees, litigation expenses, and incentive  
18          payments for the class representative in the ceramic  
19          substrates case.

20          As we discussed earlier, just before Your Honor's  
21          approval of the motion for final approval of the settlements,  
22          the ceramics substrates settlements total \$17.3 million with  
23          Corning, DENSO, and NGK, three defendants. And this series  
24          of settlements will conclude the direct purchaser action in  
25          the ceramics substrates part. So it's another part, you

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1 know, that we can check off here, and that helps move this  
2 entire MDL towards closure.

3 We don't know what Judge Battani might have promised  
4 you, Your Honor. We don't know if she promised you that the  
5 case would somehow efficiently resolve, but we are doing  
6 everything we can to seek resolution, either by settlement or  
7 litigation of the entire MDL. And there is a certain  
8 satisfaction after doing this for over eight years to close  
9 out a single part, and that's what we're doing with ceramic  
10 substrates and others.

11 THE COURT: Mr. Hansel, there was no promises made.  
12 As a matter of fact, it cost me a dinner. So go ahead.

13 MR. HANSEL: So our request again is for 30 percent  
14 using a percentage of the fund approach. And that was  
15 included in the class notice that we described earlier and I  
16 won't repeat all of the forms of notice. The key point being  
17 that there have been zero objections to the notice, and very  
18 few opt-outs.

19 In our brief, we cite the *Sheick* case, 2010 Westlaw  
20 4136958 at page 22 from the Eastern District of Michigan in  
21 2010, in which the Court held that the scarcity of objections  
22 indicates broad support.

23 It reminds me of the old expression "it's scarcer  
24 than hens' teeth." And there have, indeed been no objections  
25 to this settlement or this fee application, and application



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1 for expenses, and incentive awards.

2 I want to note that the same standards described by  
3 my co-counsel apply. The request -- the settlements are  
4 fair, reasonable, and adequate, as the Court has found. The  
5 reaction of the class has been favorable.

6 The historic use of the percentage of the fund  
7 method in this district and this circuit, the benefits of  
8 that include to conserve judicial resources, eliminate  
9 disputes about the reasonableness of rates and hours, to  
10 align the interests of counsel with the interest of the  
11 class, and is typical in this type of litigation. And it's  
12 within the range of other class action fees in this district  
13 and this circuit.

14 Direct purchaser counsel vigorously and effectively  
15 pursued the case on behalf of Airflow Catalyst Systems, Inc.  
16 and the class. We investigated the facts. We studied the  
17 industry. We worked closely with our client. Ceramic  
18 substrates are -- it's amazing, Your Honor, with all these  
19 different auto parts. Every one is a little bit different  
20 and ceramics substrates is no exception.

21 Airflow Catalysts was very helpful in educating us  
22 about that particular part of the automotive parts industry.  
23 We have reviewed massive amounts of documents and coded them,  
24 documents produced to the DOJ, in particular. We  
25 investigated, we consulted with experts. We had extensive

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1 arm's-length negotiations through mediators and directly with  
2 defendants. We prepared many court papers. We litigated  
3 motions to dismiss and other motions.

4 I want to just stress another point here. We are up  
5 against some of the finest defense firms in the world in this  
6 case. So plaintiffs' counsel, we have to bring our best to  
7 this case every day. And we never underestimate the  
8 difficulty of a case like this. So that's the work we did.

9 THE COURT: Mr. Hansel, I do know that at least part  
10 of the case went up against the Marine Corps seeing Mr.  
11 Herrmann over there. Go ahead.

12 MR. HANSEL: Yes, Your Honor.

13 So the Sixth Circuit factors, as the Court has  
14 noted, include the value of the services on an hourly basis.  
15 In this case, the lodestar through April 30 is 3.3 million,  
16 which translates into a lodestar multiplier of 1.56, which is  
17 well within the range in similar cases, including similar  
18 cases in this MDL. The actual request of 30 percent after  
19 deducting fees and -- sorry, after deducting costs, and  
20 expenses, and incentive awards, the fee request amounts to  
21 \$5,171,087.93.

22 We ask that the Court authorize interim lead counsel  
23 to allocate the fee among all of the different law firms who  
24 contributed.

25 We are, as lead counsel, most familiar with what

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1 everyone has done to advance the case. The number of hours  
2 invested by direct purchaser counsel as of January 31 of this  
3 year was 5,672 hours, and we would add to that the hours  
4 since then, which we don't have today, but there were  
5 additional hours.

6 We are also seeking from the Court an award of  
7 litigation expenses in the amount of \$63,040.24, not  
8 including telephone, fax, and internal copying.

9 And we are seeking a service award or incentive  
10 award to the class representative Airflow Catalysts, Inc. in  
11 the amount of \$25,000. They have been very helpful, and  
12 diligent, and I might add are extraordinarily knowledgeable  
13 about the science behind catalytic converters and ceramic  
14 substrates, which is actually really helpful in understanding  
15 issues in the lawsuit.

16 They spent a lot of time with counsel. They  
17 assisted us in many ways. We kept them apprised. They were  
18 not promised an incentive award, and they've been a stalwart  
19 class representative. So we request that incentive payment.

20 And then I'll just conclude by saying again there  
21 have been no objections, and that is a strong indication of  
22 support from the class.

23 Thank you, Your Honor.

24 THE COURT: Thank you.

25 Anything further from the defense? Okay.

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1           The Court will grant the motion. The Court finds  
2           that your request for attorney fees are reasonable under the  
3           circumstances. The Court grants request to use a percentage  
4           of fund approach. The Court has considered the *Ramey*  
5           factors, has considered the value of the benefit rendered,  
6           society's stakes in rewarding attorneys who provide such  
7           benefits in order to maintain incentive to others, whether  
8           the services were undertaken on a particular fee basis, the  
9           complexity of the litigation, professional skill and standing  
10          involved on both sides, and the value of the services on an  
11          hourly basis. The motion is granted.

12           And, last but not least, I believe it's Mr. Kohn.

13           MR. KOHN: That's correct, Your Honor. Joseph Kohn  
14          again for the direct purchaser's in the valve timing control  
15          case. If Your Honor, please, I would like to simply  
16          incorporate, if I may, the arguments of my colleagues  
17          bringing up the rear here as I am, with respect to the legal  
18          standards and the case law with respect to these issues, and  
19          again, just touch on them, the particular specifics of this  
20          case.

21           We seek a similar order which would direct that the  
22          lead counsel allocate the fees among all counsel. There were  
23          a total of eight firms in the action, including the five  
24          firms that you see here today; three additional firms. We  
25          all worked cooperatively together on the matter.

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1           The total settlements again amounted to \$2,719,274.  
2       We are requesting reimbursement of out-of-pocket expenses of  
3       \$22,208.59. And the details of those are set forth in the  
4       particular affidavits and summaries from each of the law  
5       firms.

6           We then are respectfully requesting the Court award  
7       a 30 percent fee as you have approved in these other matters  
8       this morning, from the amount, after deducting the costs  
9       first, and that would produce a fee of \$809,119.62.

10          The time in this matter was principally spent on a  
11       number of items. One, the review of the Department of  
12       Justice documents. Secondly, there was a motion practice,  
13       including, as I mentioned earlier, some unique motion issues  
14       relative to defenses that -- I think Defendant Aisin was  
15       asserting, which also related to issues involving the extent  
16       of the class period, which did involve some extensive  
17       briefing, and actually had prepared complaints to be filed in  
18       other jurisdictions pursuant to their defense, which was then  
19       part of our settlement negotiations with them, and then  
20       obviously the preparation of all the settlement documents,  
21       the claim forms, the analyses, and et cetera.

22          The total lodestar in the case which we had updated  
23       for the Court is \$1,061,033.25. Therefore, the requested 30  
24       percent fee, if approved, would represent a fractional or a  
25       negative multiplier, if you will, of the .76 or 76 percent of

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1     that time at the hourly rate.

2             Again, as with the other matters, I'm pleased to  
3     report no objections from any of the sophisticated class  
4     members that were referred to earlier, and that the 30  
5     percent figure, in addition to the precedent Your Honor has  
6     set this morning, and that these rulings is consistent with  
7     decisions that remained earlier in this case in the air  
8     conditioning systems case, and in the alternator's case,  
9     among others, and the extensive list of cases we included in  
10    our briefing.

11            With respect to the incentive award, we request  
12    respectfully in this case a \$25,000 award to the class  
13    representative. All European Auto Supply did everything  
14    needed, everything requested of it, and as in some other  
15    cases, it was the sole plaintiff.

16            There have been incentive awards in various cases in  
17    the auto parts and in other ligations where there are a  
18    number of plaintiffs. So that this \$25,000 payment is the  
19    sum total of any incentive award. And if they had not  
20    stepped forward and undertaken the burdens and everything  
21    that went with it, there would have been no recovery of any  
22    kind for the class members. And again, that \$25,000 award is  
23    in line with some other decision, including the power window  
24    case, and less awards in some other cases, including the wire  
25    harness case where there was much more extensive requirement

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1 of the class representatives. So I believe that's the  
2 appropriate number for this matter.

3 So again, unless Your Honor has other questions for  
4 me, we would respectfully rest on our papers and request Your  
5 Honor's approval.

6 THE COURT: Thank you Mr. Kohn. Anyone from the  
7 defense?

8 MR. IWREY: Nothing from Aisin Seiki, Your Honor.  
9 Thank you.

10 THE COURT: Great. All right. The Court finds that  
11 the request of attorney fees is reasonable under the  
12 circumstances. The Court will grant the request, the  
13 percentage of the fund approach.

14 The Court has considered the value of the benefit  
15 rendered, society's stake in rewarding attorneys who produce  
16 such benefits in order to maintain an incentive to others,  
17 whether the services were undertaken on a contingent fee  
18 basis, the complexity of the litigation, professional skill  
19 and standing of counsel involved on both sides, and the value  
20 of the services on an hourly basis. So the motion is  
21 granted.

22 Any other issues for me today, Mr. Fink or Mr.  
23 Iwrey?

24 MR. D. FINK: Yes, Your Honor. There is one issue I  
25 just called to the Court's attention, and that is, that

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1     although we had, pursuant to the procedure Judge Battani  
2     established, we had submitted orders, eight orders earlier.  
3     We have since submitted eight revised orders which update the  
4     orders regarding -- well, first of all, of course, the name  
5     of the Court and the name of the judge, the details about  
6     opt-outs, and the accurate percentage on the lodestar  
7     multiplier.

8             So I assume that Ms. McCoy has seen those, but I  
9     just want to make sure that the Court is aware, of course  
10    Nate, who will be getting an appropriate partnership share  
11    increase, can speak to the details since he submitted them.

12            THE COURT: It's my understanding that -- I'm aware  
13    of the original orders and the revised orders. I have to  
14    work through that because in my conference table next door  
15    there's a lot of paper on this file, and basically as you  
16    know the Court has been shut down and I've been unable --  
17    I've got the papers right now. So I think that Howard and I  
18    and my staff will have to kind of get the revised orders  
19    entered. And I don't know if there's any further tweaks or  
20    not. I've just got to work my way through the paper.

21            I understand how much everyone wants these orders  
22    entered, and believe me, it's my plan to get them entered as  
23    soon as possible, but we're probably going to need some more  
24    help from Nate and Howard, okay?

25            MR. IWREY: Not a problem.



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1 THE COURT: Anything else before we close? All  
2 right. Thank you very much. See you later.

3 DEPUTY COURT CLERK: Court is in recess.

4 (Court in recess at 12:41 p.m.)

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14 **C E R T I F I C A T I O N**

15 I, Marie J. Metcalf, Official Court Reporter for the  
16 United States District Court, Eastern District of Michigan,  
17 Southern Division, appointed pursuant to the provisions of  
18 Title 28, United States Code, Section 753, do hereby certify  
19 that the foregoing is a correct transcript of the proceedings  
20 in the above-entitled cause on the date hereinbefore set  
21 forth.

22 I do further certify that the foregoing transcript  
23 has been prepared by me or under my direction.

24 s\Marie J. Metcalf August 12, 2020

25 Marie J. Metcalf, CVR, CM (Date)